

UNITED STATES OF AMERICA
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON FIELD OFFICE

EDWARD L. GILMORE,

Complainant,

V.

ERIC H. HOLDER, Attorney General,
U.S. Department of Justice,

Agency.

EEOC No. 570-2010-00972X
Agency No. DEA-2008-00180

Administrative Judge:
Hon. Frances del Toro

DECLARATION OF DEBORAH STAWICKI

Pursuant to 28 U.S.C. § 1746, I, DEBORAH STAWICKI, make this Declaration on my personal knowledge and hereby declare:

1. From September 1983 through January 1, 2011, I was employed at the Drug Enforcement Administration (“DEA”) Headquarters. Originally located in Washington, D.C., in 1990 DEA Headquarters moved to two adjacent buildings in the Pentagon City area of Arlington, Virginia—700 Army Navy Drive (the “West Building”) and 600 Army Navy Drive (the “East Building”). At the time of that move, I held the position of the Women’s Program Manager in the DEA Equal Employment Opportunity (“EEO”) Office. In that position, I observed my colleagues creating posters for display, in prominent areas of DEA Headquarters, explaining discrimination complaint procedures, including time limits, and other EEO-awareness notices.

2. Between September 1994 and January 1, 2011, I was assigned to the second floor in the West Building, where I served as a GS-14 Senior Program Analyst for the DEA Career Board.

At the Career Board, one of my responsibilities included selecting Special Agents at the GS-14 and above levels to assist with the yearly Special Agent Promotion Program ("SAPP") test. Special Agents were needed to serve as assessors/role players during the actual testing periods and/or to serve as subject matter experts during the SAPP developmental workshops and pilot tests.

3. Starting in approximately 2005 and continuing until early 2008, Edward Gilmore was assigned to the second floor of the West Building—the same floor to which I had been assigned. During that time period, I frequently saw Mr. Gilmore, the Deputy Chief Inspector ("DCI") of the Office of Security Programs, and interacted with him on Career Board projects both in person and by e-mail on the DEA internal "Firebird" computer system.

4. On the second floor of the West Building (as on all other floors of the West and East Buildings), there has been one set of bathrooms, with the men's and women's restroom entrances separated by a bulletin board. During Mr. Gilmore's tenure on the second floor of the West Building, the bulletin board between the restroom entrances continuously bore EEO posters setting forth EEO complaint procedures, including the requirement to contact an Agency EEO Counselor within 45 days after the occurrence of alleged discrimination. In addition, during Mr. Gilmore's tenure at DEA Headquarters as the Security Programs DCI, such posters continuously were posted in the parking garage elevator lobbies of the West and East Buildings and in other prominent places, including on bulletin boards between the bathroom entrances throughout the West and East Buildings and in the Career Board office, which Mr. Gilmore sometimes visited.

5. Attached to this Declaration as Exhibit 1 is a true and accurate copy of one such poster, mentioned in Paragraph Four of this Declaration, except that it is reduced in size from the original 17-inches by 11-inches and, unlike the previous posters posted at DEA Headquarters, it

does not list the applicable EEO Counselors and their phone numbers. Exhibit 1, and a previous poster of the same size with identical words, fonts, boldness, and underlining, continuously appeared on the bulletin board between the restrooms on the second floor of the West Building during Mr. Gilmore's tenure on the second floor. In addition, Exhibit 1—and the previous poster of the same size with identical words, fonts, boldness, and underlining as Exhibit 1—continuously was posted in the parking garage elevator lobbies of both the West and East Buildings and in other prominent places, including the bulletin boards between the bathroom entrances throughout both buildings and in the Career Board office, where Mr. Gilmore often visited.

6. Exhibit 1, entitled "Equal Employment Opportunity EEO Counselors," specifies the attributes protected by discrimination laws and Department of Justice ("DOJ") policies, and it provides, in part: "If you believe that you have been the victim of discrimination in your work or through DEA's employment process, you must initiate contact with an **EEO Counselor within 45 days** of the occurrence of the alleged discrimination." Ex. 1 (original emphasis).

7. Beginning in or about January 2007 another EEO Poster, this one bearing the colors of the spectrum, appeared next to Exhibit 1 on the bulletin board between the men's and women's bathrooms on the second floor of the West Building, where it continuously was posted during the remaining tenure of Mr. Gilmore through early 2008 (and through my retirement on January 1, 2011). That second poster—starting in approximately January 2007 through the remaining tenure of Mr. Gilmore in early 2008 (and through my retirement on January 1, 2011)—also continuously was posted in the parking garage elevator lobbies of both the West and East Buildings and in other prominent places, including the bulletin boards between the bathroom

entrances throughout both buildings and in the Career Board office, which Mr. Gilmore sometimes visited.

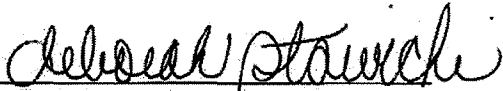
8. A true and accurate copy of that multi-colored poster, entitled “Drug Enforcement Administration Equal Employment Opportunity,” is attached to this Declaration as Exhibit 2, except it is reduced from its original size of 17-inches by 11-inches. Exhibit 2 explains the four major programs of the DEA EEO Office, including “Discrimination Complaint Processing and Alternative Dispute Resolution.” Under that heading, Exhibit 2 explains the attributes protected by discrimination law and DOJ policies and provides, in part: “If you believe that you have been the victim of discrimination in your work or through DEA’s employment process, you must initiate contact (via phone, e-mail, fax, or in person) with an EEO Counselor **within 45 calendar days** of the occurrence of the alleged discrimination.” Ex. 2 (original emphasis).

9. DEA’s Firebird internal computer system has had an “intranet” feature named “Webster,” through which DEA employees nationwide could learn about Agency and DOJ policies and procedures. Prior to Mr. Gilmore’s approximate 2005 commencement as the Security Programs DCI at DEA Headquarters and continuing through Mr. Gilmore’s tenure with the Agency until early 2008 (and through my January 1, 2011, retirement), DEA installed on its intranet an “EEO” icon on which employees could click for DEA and Departmental EEO policies and procedures.

10. Attached to this Declaration as Exhibit 3 is a true and accurate copy of the first page of the EEO Webster intranet site and the “Discrimination Complaint Procedures” section, which continuously have been available on the Firebird computer system to DEA employees, including Mr. Gilmore, since approximately 2004. The subsection “Informal Complaint Processing” provides, in part: “If you believe that you have been the victim of discrimination in your work or

through DEA's employment process, you must initiate contact with an EEO Counselor **within 45 days** of the occurrence of the alleged discrimination." Ex. 3 at 2 (original emphasis).

I declare under penalty of perjury that the foregoing is true and correct. Executed on January 25, 2012.


DEBORAH STAWICKI



U.S. Department of Justice
Drug Enforcement Administration

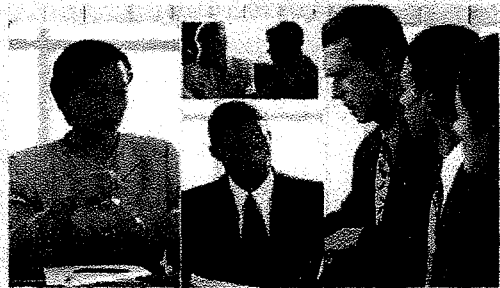


Equal Employment Opportunity EEO Counselors

A Drug Enforcement Administration employee or an applicant for employment with the DEA may file a formal complaint of discrimination if the employee or applicant believes that s(he) has been discriminated against based on one or more of the following:

Race, Color, Age, Sex (Including Sexual Harassment), Religion, National Origin, Disability (Physical or Mental), Retaliation, Sexual Orientation (DOJ policy), or Parental Status (DOJ policy).

If you believe that you have been the victim of discrimination in your work or through DEA's employment process, you must initiate contact with an EEO Counselor within 45 days of the occurrence of the alleged discrimination. At the initial counseling session, the EEO Counselor will advise you of your rights and responsibilities, and of your right to choose between the Alternative Dispute Resolution (ADR) process and EEO counseling. If you elect EEO counseling, the EEO Counselor will conduct an informal inquiry regarding your allegation(s), and attempt to facilitate resolution of your complaint. If the complaint cannot be informally resolved, the EEO Counselor will issue you a Notice of Final Interview, and advise you of your Right to File a Formal Complaint of discrimination with DEA's EEO Office within 15 days of your receipt of the notice of right to file.



YOUR EEO COUNSELORS ARE:



EXHIBIT 1

Drug Enforcement Administration Equal Employment Opportunity

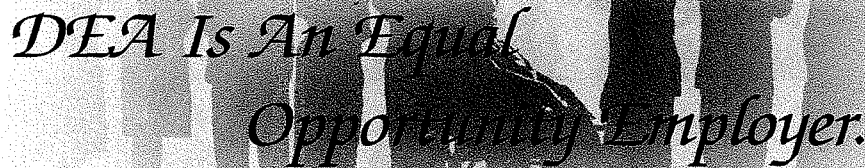
600 Army Navy Drive, Room E-11275, Arlington, Virginia 22202
(202) 307-8888 (Office), (202) 307-8942 (Fax)

Special Emphasis Programs

The EEO Special Emphasis Programs (SEPs) are management programs established to ensure equal opportunity for minorities, women, and persons with disabilities. The SEPs are forums for employees and management to discuss and understand employment issues and barriers, and recommend specific actions to address issues and remove perceived barriers. These programs consist of professional development; mentoring and networking opportunities; motivational speakers; discussion panels and workgroups; as well as culturally diverse displays, showcases and demonstrations throughout the year.

Affirmative Employment

The Drug Enforcement Administration (DEA) actively encourages diversity as an aspect of sound business practice and has incorporated its approach in EEO and affirmative employment goals and strategies. The Affirmative Employment Program (AEP), as one of the tools, is a proactive effort to achieve and maintain a highly skilled, diverse workforce in a work environment free of discrimination. The AEP program promotes the full inclusion, utilization and upward mobility of all DEA employees. The AEP monitors and analyzes the workforce to identify trends and barriers.



*DEA Is An Equal
Opportunity Employer.*

Discrimination Complaint Processing and Alternative Dispute Resolution

A Drug Enforcement Administration (DEA) employee or an applicant for employment with the DEA may file a formal complaint of discrimination if the employee or applicant believes that s(he) has been discriminated against based on one or more of the following: **Race, Color, Age, Sex (including Sexual Harassment), Religion, National Origin, Disability (physical or mental), Reprisal, Parental Status, or Sexual Orientation.** An aggrieved individual has the option of choosing EEO counseling or participating in DEA's Alternative Dispute Resolution (ADR) Program. The ADR Program involves the use of mediation, which is the use of an impartial and neutral third party who assists the disputing parties in voluntarily reaching a resolution of the dispute. If you believe that you have been the victim of discrimination in your work or through DEA's employment process, you must initiate contact (via phone, e-mail, fax, or in person) with an EEO Counselor **within 45 calendar days** of the occurrence of the alleged discrimination.

Selective Placement Program (Persons with Disabilities)

Millions of Americans are affected by mental and/or physical disabilities, and each year the number of individuals with disabilities escalates. Individuals with disabilities are to be given the same opportunities as individuals without disabilities to enjoy complete integration into American society. The Selective Placement Program (SPP) was created to ensure that individuals with disabilities are given the opportunity to pursue careers and achieve their fullest employment potential without barriers of discrimination and bias. The primary objective of the SPP is to stop discrimination and increase opportunities for employment of Americans with disabilities, while ensuring accommodations for special needs are being met within the Federal government. In addition, the SPP assists in educating employees, managers and supervisors in providing reasonable accommodations on a day-to-day basis for qualified individuals with a disability.

EXHIBIT 2

EQUAL EMPLOYMENT OPPORTUNITY

[ADR
Program](#)

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[Disability Awareness
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Exhibit 3

EEO Complaint Procedures

(29 Code of Federal Regulations Part 1614)

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A Drug Enforcement Administration (DEA) employee or an applicant for employment with the DEA may file a formal complaint of discrimination if the employee or applicant believes that he or she has been discriminated against based on one or more of the following:

Race, Color, Age, Sex (including Sexual Harassment), Religion, National Origin, Disability (physical or mental), Reprisal, Parental Status, or Sexual Orientation.

INFORMAL COMPLAINT PROCESSING

If you believe that you have been the victim of discrimination in your work or through DEA's employment process, you must initiate contact with an EEO Counselor **within 45 days** of the occurrence of the alleged discrimination. At the initial counseling session, the EEO Counselor is required to provide you with written notice of your rights and responsibilities, including the differences between **Alternative Dispute Resolution (ADR)** and EEO counseling, whether ADR will be offered to you, and your right to choose between ADR and EEO Counseling. The EEO Counselor will assist you in determining the issue(s) and basis(es) of your complaint, conduct an informal inquiry, and attempt to facilitate informal resolution of the complaint. If informal resolution is not possible, **within 30 days** of your initial contact, the EEO Counselor will issue you a "Notice of Final Interview and Right to File a Formal Complaint" with DEA's Administrator or EEO Officer, unless you and DEA have agreed to an extension up to an additional 60 days.

FORMAL COMPLAINT PROCESSING

You must file a formal complaint of discrimination **within 15 days** of your receipt of the "Notice of Final Interview and Right to File a Formal Complaint" from the EEO Counselor. The EEO Officer will send you a letter acknowledging the date of receipt of your complaint or of an amendment to your complaint (postmark date), the EEOC address for sending a hearing request, the basis(es) and issue(s) claimed in your complaint, notice of your right to appeal the agency's final action on the complaint or dismissal of the complaint; and of the agency's requirement to conduct an impartial and appropriate investigation of your complaint **within 180 days** of the date your complaint or the last amendment of your complaint was filed.

If your complaint is accepted for formal processing, you will be sent a letter of acceptance

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identifying the basis(es) and issue(s) accepted for investigation, including notification that your complaint may be amended any time prior to the conclusion of the investigation, of DEA's obligation to complete the investigation within the earlier of 180 days after the last amendment or 360 days of the initial filing of the complaint, your right to request a hearing before an EEOC Administrative Judge or a final decision from the Department of Justice (DOJ); your right to appeal the DOJ final decision; and your right to file a civil action in an appropriate U. S. District Court on matters raised in the administrative process.

Upon completion of the investigation of your complaint, you will be provided a copy of the Report of Investigation (ROI) for your review. Within 30 days of your receipt of the ROI, you must indicate whether you desire a hearing before an EEOC Administrative Judge or a final decision by the DOJ.

If you request a hearing, within 180 days of your request, EEOC must issue a decision to the DOJ, who must render a final order within 40 days, indicating whether it will or will not fully implement the EEOC's decision.

If you request a DOJ final decision without a hearing, or if you fail to respond within the 30 days, the ROI will be sent to the DOJ, who must render a final decision within 60 days of the date of your request, or within 60 days of the end of the 30-day period for requesting a hearing.

If you are dissatisfied with the final decision of the DOJ (without an EEOC hearing), you may appeal to the EEOC within 30 days of your receipt of DOJ's final decision. You still have the right to file a civil action in an appropriate U. S. District Court within 90 days of receipt EEOC's decision on your appeal, or after 180 days from the date you filed the appeal with EEOC, if no EEOC decision has been rendered by that time.

You also have the right to file a civil action within 90 days of your receipt of DOJ's final decision, if you did not file an appeal, or after 180 days from the date you initially filed your complaint, if no appeal has been filed, and a DOJ final decision has not been issued. Filing a civil action will terminate administrative processing of your complaint or appeal.

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